

AMENDED IN SENATE MAY 17, 2006

AMENDED IN SENATE APRIL 4, 2006

SENATE BILL

No. 1360

Introduced by Senator Kehoe

February 21, 2006

An act to amend Section 27255 of the Government Code, and to add Article 3 (commencing with Section 5096.520) to Chapter 1.695 of Division 5 of the Public Resources Code, relating to resource conservation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1360, as amended, Kehoe. County records: conservation easement registry.

(1) Existing law requires the county recorder in each county to develop and maintain, within the existing indexing system, a comprehensive index of conservation easements on land in that county. Existing law also requires the county recorder, with respect to conservation easements affecting property within the county, recorded on or after January 1, 2002, to include the conservation easement in the index, if the document is properly labeled, or if a Notice of Conservation Easement is also recorded. Existing law authorizes specified parties to conservation easements to fill out and record a Notice of Conservation Easement for conservation easements recorded prior to January 1, 2002. The Notice of Conservation Easement states that no fee is required for recording the document pursuant to a provision exempting state and local officials from such fees.

This bill would delete from the Notice of Conservation Easement that statement that no fee is required by that provision. *The bill would*

require the county recorder to send a copy of the notice, within 30 days of its recording, to the Secretary of the Resources Agency. By imposing a new duty on county recorders, the bill would create a state-mandated local program.

Existing law requires the standard fee charged by the county recorder for recording the conservation easement document to include funds to cover the costs associated with indexing the document.

This bill instead would authorize the county recorder to include in that fee, funds to cover the costs associated with indexing the document and forwarding a copy of the Notice of Conservation Easement to the Secretary of the Resources Agency.

(2) Existing law authorizes various agencies to acquire land for purposes related to conservation. Existing law specifies certain requirements and procedures for the acquisition of conservation lands.

This bill would require the Secretary of the Resources Agency to establish a central public registry of all conservation easements, as defined, all open-space easements, ~~as defined, and all agricultural conservation easements, as defined,~~ including, but not limited to, those easements held or required by the state, or purchased; on or after January 1, 2000, with state grant funds provided by any agency, department, or division of the state. The bill would provide that the registry shall be ~~accessible~~ available for use by the general public, on or before January 1, 2009. The bill would require the registry to include, and the secretary to provide on the Internet, information on these ~~conservation, open-space, and agricultural~~ conservation easements, as specified.

(3) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

1 (a) Conservation easements and agricultural conservation
2 easements are a valuable tool and a cost-effective way to protect
3 the state's natural resources.

4 (b) It is important to ensure that the public has information on
5 how moneys are spent by state agencies when purchasing
6 easements for the preservation and protection of critically needed
7 conservation and agricultural lands.

8 (c) Information regarding easements should be disseminated in
9 a readily and easily available manner.

10 (d) A central public registry of conservation easements,
11 open-space easements, and agricultural conservation easements
12 would provide information that would lead to better conservation
13 and resource planning among state agencies, local governments,
14 nonprofit organizations, and the public.

15 *SEC. 2. Section 27255 of the Government Code is amended to*
16 *read:*

17 27255. (a) The county recorder in each county shall develop
18 and maintain, within the existing indexing system, a
19 comprehensive index of conservation easements and Notice of
20 Conservation Easements on land within that county. The
21 conservation easement index developed and maintained pursuant
22 to this subdivision shall include all conservation easements
23 recorded on and after January 1, 2002.

24 (b) For the purposes of this section, "conservation easement"
25 means any limitation in a recorded instrument that contains an
26 easement, restriction, covenant, condition, or offer to dedicate,
27 which is or has been executed by or on behalf of the owner of the
28 land subject to that limitation and is binding upon successive
29 owners of the land, and the purpose of which is to retain land
30 predominantly in its natural, scenic, historical, agricultural,
31 forested, or open-space condition. "Conservation easement"
32 includes a conservation easement as defined in Section 815.1 of
33 the Civil Code, an open-space easement as defined in Section
34 51075 of this code, and an agricultural conservation easement as
35 defined in Section 10211 of the Public Resources Code.

36 (c) On and after January 1, 2002, when a county recorder
37 records a new conservation easement affecting property within
38 the county, he or she shall include the easement in the index
39 developed and maintained pursuant to subdivision (a), if the
40 document containing the easement is entitled "Conservation

Easement,” or the following document is properly filled out by the submitter, and recorded at the same time, or at a later date:

Recording Requested by and
When Recorded Return To:

There is no fee required for the recording of this document pursuant to Government Code Section 6103 NOTICE OF CONSERVATION EASEMENT	
The undersigned hereby gives notice that a Conservation Easement was recorded _____ in the _____ County Recorder's _____ Office _____ on	
and recorded as Document Number _____.	
The grantors and grantees of the Conservation Easement were	
Grantors _____	
Grantees _____	
<input type="checkbox"/> Mark here, if state funds were used in the purchase of the easement, the state was a party to the purchase, or the state holds an interest in the property. I declare under penalty of perjury that the above statement is true and correct. Signed, _____ Dated, _____	
<i>The recorder shall forward a copy of this notice, within 30 days of its recording, to the Secretary of the Resources Agency, 1416 Ninth Street, Suite 1311, Sacramento, CA 95814.</i> THIS NOTICE IS FOR INDEXING PURPOSES ONLY, AND DOES NOT, BY ITSELF, CONSTITUTE A CONSERVATION EASEMENT	

(d) In order to include conservation easements recorded prior to January 1, 2002, the comprehensive index of conservation easements and “Notice of Conservation Easements” developed and maintained pursuant to subdivision (a), any parties to

1 conservation easements, including, but not limited to, the
2 counties, cities, recreation and park districts or agencies, state
3 conservancies, state agencies, the California Coastal
4 Commission, land trusts, and nonprofit organizations, may fill
5 out and record a Notice of Conservation Easement pursuant to
6 subdivision (c) for each previously recorded conservation
7 easement, in the county in which the affected real property is
8 located.

9 (e) Pursuant to Section 27361, the standard fee charged by the
10 county recorder for recording the conservation easement
11 document ~~shall~~ *may* include funds to cover the costs associated
12 with indexing the document *and forwarding a copy of the Notice*
13 *of Conservation Easement to the Secretary of the Resources*
14 *Agency as required in the notice.*

15 (f) It is the intent of the Legislature that nothing in this section
16 shall be construed to require a county recorder to develop and
17 maintain an index separate from the existing indexing system,
18 and that the conservation easement index be established by using
19 existing resources.

20 ~~SEC. 2. Section 27255 of the Government Code is amended~~
21 ~~to read:~~

22 ~~27255. (a) The county recorder in each county shall develop~~
23 ~~and maintain, within the existing indexing system, a~~
24 ~~comprehensive index of conservation easements and Notice of~~
25 ~~Conservation Easements on land within that county. The~~
26 ~~conservation easement index developed and maintained pursuant~~
27 ~~to this subdivision shall include all conservation easements~~
28 ~~recorded on and after January 1, 2002.~~

29 ~~(b) For the purposes of this section, “conservation easement”~~
30 ~~means any limitation in a recorded instrument that contains an~~
31 ~~easement, restriction, covenant, condition, or offer to dedicate,~~
32 ~~which is or has been executed by or on behalf of the owner of the~~
33 ~~land subject to that limitation and is binding upon successive~~
34 ~~owners of the land, and the purpose of which is to retain land~~
35 ~~predominantly in its natural, scenic, historical, agricultural,~~
36 ~~forested, or open-space condition. “Conservation easement”~~
37 ~~includes a conservation easement as defined in Section 815.1 of~~
38 ~~the Civil Code, an open-space easement as defined in Section~~
39 ~~51075 of this code, and an agricultural conservation easement as~~
40 ~~defined in Section 10211 of the Public Resources Code.~~

~~(e) On and after January 1, 2002, when a county recorder records a new conservation easement affecting property within the county, he or she shall include the easement in the index developed and maintained pursuant to subdivision (a), if the document containing the easement is entitled "Conservation Easement," or the following document is properly filled out by the submitter, and recorded at the same time, or at a later date:~~

~~Recording Requested by and
When Recorded Return To:~~

1	NOTICE OF CONSERVATION EASEMENT
2	—
3	The undersigned hereby gives notice that a Conservation Easement was
4	recorded in the _____ County Recorder's
5	Office on _____
6	_____
7	and recorded as Document Number _____.
8	The grantors and grantees of the Conservation Easement were
9	Grantors _____
10	_____
11	Grantees _____
12	_____
13	I declare under penalty of perjury that the above statement is true and
14	correct.
15	Signed, _____
16	Dated, _____
17	—
18	THIS NOTICE IS FOR INDEXING PURPOSES ONLY, AND DOES
19	NOT, BY ITSELF, CONSTITUTE A CONSERVATION EASEMENT

20
21 (d) In order to include conservation easements recorded prior
22 to January 1, 2002, the comprehensive index of conservation
23 easements and "Notice of Conservation Easements" developed
24 and maintained pursuant to subdivision (a), any parties to
25 conservation easements, including, but not limited to, the
26 counties, cities, recreation and park districts or agencies, state
27 conservancies, state agencies, the California Coastal
28 Commission, land trusts, and nonprofit organizations, may fill
29 out and record a Notice of Conservation Easement pursuant to
30 subdivision (c) for each previously recorded conservation
31 easement, in the county in which the affected real property is
32 located.

33 (e) Pursuant to Section 27361, the standard fee charged by the
34 county recorder for recording the conservation easement
35 document shall include funds to cover the costs associated with
36 indexing the document.

37 (f) It is the intent of the Legislature that nothing in this section
38 shall be construed to require a county recorder to develop and
39 maintain an index separate from the existing indexing system,

1 and that the conservation easement index be established by using
2 existing resources.

3 SEC. 3. Article 3 (commencing with Section 5096.520) is
4 added to Chapter 1.695 of Division 5 of the Public Resources
5 Code, to read:

6
7 Article 3. Conservation Easement Registry
8

9 5096.520. (a) The Secretary of the Resources Agency shall
10 establish a central public registry of all conservation easements,
11 *including, but not limited to, those held or required by the state or*
12 *purchased, on or after January 1, 2000, with state grant funds*
13 *provided by any agency, department, or division of the state. In*
14 *constructing the registry, the Resources Agency shall draw upon*
15 *the comprehensive index of conservation easements and notices*
16 *of conservation easement provided by county recorders pursuant*
17 *to Section 27255 of the Government Code, the Department of*
18 *General Services' property inventory, and other information held*
19 *by a state agency, department, or division.*

20 (b) For the purposes of this section, "conservation easement"
21 means any limitation in a recorded instrument that contains an
22 easement, restriction, covenant, condition, or offer to dedicate,
23 that has been executed by or on behalf of the owner of the land
24 subject to that limitation and is binding upon successive owners
25 of the land, and the purpose of which is to retain land
26 predominantly in its natural, scenic, historical, agricultural,
27 forested, or open-space condition. "Conservation easement"
28 includes a conservation easement as defined in Section 815.1 of
29 the Civil Code, an open-space easement as defined in Section
30 51075 of the Government Code, and an agricultural conservation
31 easement as defined in Section 10211.

32 (c) ~~The~~ *For a conservation easement held or required by the*
33 *state or purchased on or after January 1, 2000, with state funds*
34 *provided by any agency, department, or division of the state, the*
35 *registry shall include all of the following information on each*
36 ~~conservation easement, open-space easement, and agricultural~~
37 *conservation easement; listed in the registry:*

38 (1) The recordation number assigned by the county recorder.

39 (2) The purpose of the easement.

1 (3) The location of the easement, identified by county and
2 nearest city.

3 (4) The identity of the easement holder.

4 (5) The size of the easement in acres.

5 (6) The amount in dollars, if any, of the state's contribution
6 towards the easement transaction.

7 (7) The date the easement transaction was completed.

8 (8) A copy of the easement.

9 *(d) For all conservation easements not described in*
10 *subdivision (c), the registry shall include, for each conservation*
11 *easement listed in the registry, a copy of the notice of*
12 *conservation easement provided by a county recorder pursuant*
13 *to Section 27255 of the Government Code.*

14 ~~(d)~~

15 *(e) On or before January 1, 2009, the Secretary of the*
16 *Resources Agency shall make the registry available for use by*
17 *the general public. Information pertaining to paragraphs (1) to*
18 *(7), inclusive, of subdivision (c) shall be provided by the*
19 *Secretary of the Resources Agency on the Internet. The registry*
20 *shall be updated ~~biannually~~ biennially.*

21 *SEC. 4. No reimbursement is required by this act pursuant to*
22 *Section 6 of Article XIII B of the California Constitution because*
23 *a local agency or school district has the authority to levy service*
24 *charges, fees, or assessments sufficient to pay for the program or*
25 *level of service mandated by this act, within the meaning of*
26 *Section 17556 of the Government Code.*